

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHERINE TUTTLE,

Plaintiff,

v.

Case No. 06-14366

CITY OF DETROIT,

HONORABLE AVERN COHN

Defendant.

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ORDER GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT¹

I.

This is an employment discrimination case. Before the Court is plaintiff's motion to amend the complaint to add Ella Bully Cummings as a Part Defendant for Retaliation in Violation of M.C.L. § 37.2701 and to Supplement the Complaint to Add New Facts Pursuant to Rule 15(b). For the reasons that follow, the motion will be granted.

II.

This case has been pending on the Court's docket for sometime and the circumstances for the delay warrant comment. On October 4, 2006, plaintiff, a Caucasian woman, filed her complaint against the City of Detroit and the Detroit Police Department claiming discrimination and retaliation on the basis of race and sex arising from her employment as a Detroit police officer. On November 9, 2006, the City of Detroit, through counsel, filed a notice of appearance and an answer. On February 22,

¹The Court originally scheduled this matter for hearing. Upon review of plaintiff's papers, and as will be explained, the failure of defendant to file a response, the Court finds that oral argument is not necessary. See E.D. Mich. LR 7.1(e)(2).

2007, the Court held a status conference with the parties after which it entered a Scheduling Order.

Plaintiff then attempted to engage in discovery; defendant failed to respond or otherwise engage in meaningful discovery. The Court, at plaintiff's counsel's request, scheduled a status conference for September 25, 2007. Plaintiff's counsel appeared; defendant's counsel did not. Accordingly, on September 26, 2007, plaintiff filed a motion for default judgment as to liability essentially for defendant's failure to respond to discovery and for counsel's failure to appear for the status conference, with supporting documentation. The Court sent a notice of hearing on the motion for October 25, 2007. On October 24, 2007, defendant filed a detailed response to the motion for default judgment. Following the hearing, at which the Court cautioned counsel for defendant against further delays in defending the case, the Court entered an order denying plaintiff's motion without prejudice "to plaintiff's right to apply for sanctions at the conclusion of the case." The Court also issued a new scheduling order.

On December 11, 2007, plaintiff filed the instant motion to amend. Plaintiff seeks to add Ella Bully Cummings, the Police Chief of the City of Detroit, as a defendant and assert a retaliation claim against her. Plaintiff also requests permission to add additional allegations to the complaint. Namely, plaintiff alleges that she was informed that Cummings would promote plaintiff to the executive ranks of the Detroit Police Department if she agreed to dismiss this action. Defendant did not file a timely response.² On January 31, 2008, the Court issued a Notice of Hearing, setting a

²Under the local rules, a party must file a response to a non-dispositive motion within fourteen (14) days, with three (3) days allowed for mailing. See E.D. Mich. LR

hearing date of February 21, 2008. The Notice also stated (in bold):

A response is due on or before February 11, 2008. No extensions to file the response will [be] granted.

Despite the Court's clear directive, defendant's have not filed a response.

Given defendant's failure to respond to the motion, and having reviewed the motion and finding it to be well-taken and within the parameters of Rule 15, the motion is GRANTED. Should defendant continue to delay or otherwise fail to defend this action, plaintiff may renew its motion for default judgment.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 13, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 13, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160

7.1(d)(2). Taking into consideration intervening Court holidays and closures, defendant's response was due at least by January 2, 2008.